Global Counsel

Reforms to planning in a pandemic will prove hard to deliver

Blog post by Practice Lead Alex Dawson, 18 September 2020

When Boris Johnson relaunched his domestic agenda and signalled the end of England's national lockdown In June, he placed planning reform at the centre of his plans to level-up the country and build a "new deal for Britain". His pledge to launch the most radical reforms of England's planning system since the second world war was followed by a consultation on a new zonal system of planning and greater flexibility over change of use rights, alongside statutory effect for tough new local targets for housebuilding. More developed plans are expected in the coming months with legislation next year.

Cutting through all the jargon, these reforms promise the significant easing of rules around what can be built, where, and how buildings can be used. They aim to make it easier to for example switch a shop to an office or a warehouse to residential units. They see them as an overdue solution to a market that has been slow to respond to fluctuations in demand and supply. But as we enter autumn, and with MPs having had two months to digest the scope of the proposals, rebellion is brewing and shining a light on the difficult politics around real estate – a problem exacerbated by the revolution in how we work, travel and live caused by the pandemic.

The first problem is with the proposals themselves. They promise more housing in London and the south east of England – the Conservative Party's political base. New development tends to be a hard political sell here, and MPs are sceptical of targets based on an algorithm, following controversy around computer-predicted grades for students in the summer.

Second, there is still a perceived trade-off between quantity and quality of new development. The government promises a new design code in order to ensure buildings are beautiful, but higher standards imply higher costs, shorter supply and a different balance of restrictions on new development.

Third, focusing on development in densely populated areas may be timed wrong for a pandemic which could lead to a permanent shift for many people from working and living in these urban centres – all while investors try to keep up with the impacts of these changes on land values.

Finally, the implications of these changes in supply and demand have not been fully accounted for by the treasury. If investors in commercial real estate see continued falls in rental yield, and mortgage lenders are less confident of future value, that will have a knock-on effect throughout the financial system and lead to lower tax receipts for the treasury. Ultimately this may result in more property-based taxation as the government tries to both stimulate economic activity and close the deficit – leading to significant tensions over the future of business rates, capital gains tax, stamp duty and corporation tax.

So as the big political decisions of the autumn approach, the key question is how fast the government proceeds with reform in this area, and what accommodation it will make for the ‘new normal’ post-pandemic. But not for the first time this year, the government and its domestic agenda is at the mercy of events outside of its control.